

§ 146.6 Disclosure to third parties.

(a) The Commission shall not disclose to any agency or to any person by any means of communication a record pertaining to an individual which is contained in a system of records, except under the following circumstances:

(1) The individual to whom the record pertains has given his written consent to the disclosure;

(2) The disclosure is to officers and employees of the Commission who need it in the performance of their duties;

(3) Disclosure is required under the Freedom of Information Act (5 U.S.C. 552);

(4) Disclosure is for a routine use as defined in §146.2(i) and described in the system notice for that system of records;

(5) The disclosure is made to the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity;

(6) The disclosure is made to a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(7) The disclosure is made to another agency or to an instrumentality of any Governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law and if the head of the agency or instrumentality has made a written request to the Commission specifying the particular portion desired and the law enforcement activity for which the record is sought;

(8) The disclosure is made to a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;

(9) The disclosure is made to either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;

(10) The disclosure is made to the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office; or

(11) The disclosure is pursuant to the order of a court of competent jurisdiction.

(12) The disclosure is made, upon request, to a department or agency of any state or political subdivision thereof acting within the scope of its jurisdiction as permitted by section 8(e) of the Act and subject to the limitations of further dissemination as contained in section 8(e). Information disclosed pursuant to this paragraph may also include registration information maintained by the Commission on any registrant as authorized to be disclosed by section 8(g) of the Act. Registration information may be furnished to a department or agency of any state or political subdivision thereof upon reasonable request made by the department or agency or without request whenever the Commission or an employee designated by §140.75 of this chapter determines that such information may be appropriate for use by the department or agency.

(13) The disclosure is made, upon request, to a department or agency of any foreign government or any political subdivision thereof, acting within the scope of its jurisdiction, provided that, prior to disclosure, the Commission or an employee delegated authority by §140.73 of this chapter to disclose information pursuant to section 8(e) of the Act is satisfied that the information will not be disclosed by such department or agency except in connection with an adjudicatory action or proceeding brought under the laws of such foreign government or political subdivision to which such foreign government or political subdivision or any department or agency thereof is a party.

(b) The Commission will make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record. In any instance where a record on an individual, which has been submitted to the Commission by such

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individual, is sought pursuant to a summons or subpoena, notice will be given in accordance with the provisions of section 8(f) of the Commodity Exchange Act, and §140.80 of this chapter, at least fourteen days prior to disclosure. Notice will not, however, be given with regard to any information as to which the submitter has waived the notice requirements of §140.80.

(c) The Commission, with respect to each system of records under its control, shall keep an accurate accounting of certain disclosures.

(1) A record shall be kept of all disclosures made under paragraph (a) of §146.6, except disclosures made with the consent of the individual to whom the record pertains (paragraph (a)(1) of this section), disclosures to authorized employees (paragraph (a)(2) of this section) and disclosures required under the Freedom of Information Act (paragraph (a)(3) of this section).

(2) The record shall include:

(i) The date, nature, and purpose of each disclosure of a record made to any person or to another agency;

(ii) The name and address of the person or agency to whom the disclosure was made.

(3) The accounting will be retained for at least five years or the life of the record, whichever is longer, after the disclosure for which the accounting is made.

(d) The accounting described in paragraph (c) of this section will be made available to the individual named in the record upon his written request, directed to the FOI, Privacy and Sunshine Acts compliance staff, Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, except that the accounting will not be revealed with respect to disclosures made under paragraph (a)(7) of this section pertaining to law enforcement activity, and to disclosures involving systems of investigative records exempted under §146.12 of these rules.

(e) Whenever an amendment or correction of a record or a notation of dispute concerning the accuracy of records is made by the Commission in accordance with §§146.8 and 146.9 of these rules, the Commission will in-

form any person or other agency to whom the record was previously disclosed, if an accounting of the disclosure was made pursuant to the requirements of paragraph (c) of this section.

(Secs. 2(a)(11), 8 and 8a of the Commodity Exchange Act, 7 U.S.C. 4a(j), 12 and 12a, as amended by Pub. L. 97-444)

[41 FR 3212, Jan. 21, 1976, as amended at 41 FR 28261, July 9, 1976; 48 FR 22136, May 17, 1983; 49 FR 4465, Feb. 7, 1984; 60 FR 49335, Sept. 25, 1995]

§ 146.7 Content of systems of records.

(a) The Commission will maintain in its records only such information about an individual as is relevant and necessary to accomplish the purposes of the Commodity Exchange Act and other purposes required to be accomplished by statute or by executive order of the President.

(b) The Commission will maintain no record describing how any individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity.

(c) The Commission will collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs.

(d) The Commission will maintain all records which are used by the Commission in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination.

§ 146.8 Amendment of a record.

(a) Any individual may request amendment of information pertaining to him which is contained in a system of records maintained by the Commission and which is filed under his name or other individual identifier if he believes the information is not accurate, relevant, timely or complete. A request for amendment shall be directed to the FOI, Privacy and Sunshine Acts compliance staff, Office of the Secretariat,